October 10, 2005

From: Cheryl Morgan
102 Hayward Rd.
Pullman, WA. 99163

To: DOE, Water Quality Program
P.O. Box 47696
Olympia, WA. 98504

Attn: Karen Dinicola

Re: Comments to the Preliminary Draft Permit and Draft Fact Sheet
of the Phase II Stormwater Draft Permit for Eastern Washington

Dear Karen:

I have lived my entire life of 62 years in the Pullman area. My home and property is located within The Hatley Creek Basin which is located just down gradient of the Pullman City Limits. The lower reaches of the Basin are located within County jurisdiction. I have lived adjacent to the South Fork of the Palouse River (SFPR) for over 50 years. Hatley Creek flows through my front yard and is a direct tributary to the SFPR.

In Jan. 1998, The Palouse Conservation District (PCD) initiated a local watershed-planning group for the SFPR. Living adjacent to these two natural waterways (SFPR and Hatley Creek) and to visually see their continued significant degradation created by urban stormwater runoff prompted me to become an active member of this group.

The PCD also initiated a local watershed-planning group for the North Fork of the Palouse River of which I was an active participant. The NFPR watershed-planning also included the TMDL process.

The PCD has also taken the lead in initiating the on-going WRIA 34 process for the Palouse Basin, of which I am a Planning Unit Member.

I have attended SEPA workshops and have entered comments (Nov. 2002, March 2003 & Aug. 2003) to the Stormwater Management Manual for Eastern Washington. My continued involvement in watershed planning and my extended research has provided me with valued documented material directed towards the protection of our “state waters”, as defined in Chapter 90.48 RCW—Water Pollution Control and Chapter 173-201A WAC—Water Quality Standards of Surface Waters of the State of Washington) along with other mandates set forth by our State and the Federal government to protect our valued ecosystem.

Comments to the Preliminary Draft Fact Sheet:

Page 3 of 16---**Stormwater basin Planning:** Regardless of the size of the basin, it is essential a complete assessment of the basin be a requirement. A mandated basin study will force the local governments and professional engineers to "look out of the box" before any new development is allowed within a basin, thus enforcement of BMPs will be implemented to protect receiving waterways and natural riparian areas.

Those of us living in the lower reaches of the Hatley Creek Basin can attest to the importance of a mandated basin study. The City and their associated engineers failed to "look out of the box" in our basin. Each time a new development was proposed within our basin, we provided comments to the SEPA and provided factual documented information (photos, basin maps, etc.) at the public hearings. The City continued to use antiquated methods for the management of on-site stormwater systems. It took two years before the City finally heeded our concerns and commissioned an engineering firm to prepare a basin study.

The Basin Study indicated the **760 plus acre basin** drains to a 6.8 acre outlet basin to the SFPR and that the downstream outlet and the current conveyance systems located within the Basin are undersized for current conditions and will not convey a 100 year storm.

The study details and confirms the negative impacts urban stormwater runoff is creating to the natural waterways (Hatley Creek & SFPR) and to the natural riparian areas located within the Basin, thus placing an unsafe environment for the landowners in the basin.

The study confirms that the up-sizing of detention ponds may slow the stormwater runoff, but when you have multiple ponds releasing added volumes post-development, the cumulative flows of runoff are significant to the downstream reaches of the basin.

The study indicated that since source control such as detention ponds will not prevent added volumes of flow to the basin, some combination of measures would be needed to protect the landowners in the basin and address state and federal water quality laws. The study focused on stormwater quantity control **not** stromwater **quality** control.

In January 2001, as a result of the Basin study, the City adopted changes to the city's Design Standards for Surface Water Drainage for the Hatley Creek Basin which states that discharge and rate control and detention shall be provided utilizing the Santa Barbara Urban Hydrograph method for a 100-year storm event.

My research indicates the new detention standards for our Basin are designed for a "peak standard" goal for detention, seeking to maintain post-development peak discharges at their pre-development levels. However, even if this goal is achieved successfully, the aggregate duration that such flows occupy the channel will increase because the overall volume of runoff is much greater post-development.

The Hatley Creek Basin study confirms that a combination of source control measures need to be implemented to protect landowners and the natural waterways located in the lower reaches of the basin. To date the city is only implementing a minimum requirement of on-site stormwater quantity control, not off-site stormwater quality control, thus natural waterways and riparian areas located within the basin continue to receive irreversible impacts created by stormwater runoff.

Because the size of our basin consists of 760+ acres and the fact that our basin is developing rapidly (200+acres annexed to the city this year) the property owners living within the lower reaches of the basin do not feel that the city's new Design Standards for our basin is protecting our safety and welfare from present and future developments within the basin, nor will the minimum requirements protect the natural waterways and riparian areas located within the basin. **Minimum requirements will not protect!!!**

Without a required off-site analysis of the basin (regardless of size) DOE and local governments:

1. Would breach the standard of care to protect the public health from the negative impacts created from urban stormwater.
2. Would be in direct violation of various private property rights.

It must be fully understood by DOE and the local governments that off-site urban stormwater sewer conveyance is a public utility regardless if it flows through a piping system or flows over-land [on to or through private properties].

Pages: 4 & 5 of 16---**Adaptive Management:** I fully agree that biological monitoring of receiving waters is essential to protect the beneficial uses of all "state waters".

On page 5 there are (5) bullet listings as to the importance of monitoring for the protection of various current mandated beneficial uses. I am in request that you add bullet (6) to this list. Please add:

Monitoring to protect livestock from polluted and toxic stormwater discharges:
RCW 90.22 provides for flows of "state waters" to protect "water quality". Likewise, as per RCW 90.22.040, the courts have recognized the historic right of livestock watering use upon riparian grazing lands and access to the natural streams and rivers on adjoining lands now or in the foreseeable future.

On page 1 (Introduction) of this Preliminary Draft Fact Sheet, urban stormwater has been identified as "the leading contributor to water quality pollution in our urban waterways".

The property owners located within the lower reaches of the Hatley Creek Basin exercise their lawful right for access to the natural waterways for livestock watering, thus the conveyance of untreated urban stormwater to Hatley Creek is of great concern to us for the protection of our livestock as well as to our domestic pets and to human health.

The property owners living within the lower reaches of the Hatley Creek Basin are witnessing our creek, which was once fed by natural springs and natural runoff, being completely transformed into an urban stormwater sewer system. This is unacceptable to us and should not be allowable within the constraints of the Federal Clean Water Act and of Chapter 90.48 RCW of Washington State Code.

On numerous occasions, the landowners within the Hatley Creek Basin have requested the City to mandate on-site source control addressing water quality standards before discharging stormwater from the detention ponds to receiving state waters. The City continues to ignore our concerns and our requests and have related to us that "the regulation of water quality standards is a DOE responsibility".

RCW 90.48.010---Water Pollution Control: "It is declared to be the public policy of the State of Washington to maintain the **highest** possible standards to ensure the purity of all waters of the state consistent with public health and public enjoyment thereof……..

Because of the on-going substantial new urban development within our Basin, minimum standards will not protect Hatley Creek from being completely transformed into an urban stormwater sewer system within the very near future, thus there will be no beneficial use of the creek as so granted (by State and Federal Laws) to the riparian property owners.

How would the Phase II Stormwater Permit apply to the Hatley Creek Basin?

The Hatley Creek Basin is only one of many areas experiencing substantial new development within the City limits of Pullman. There is substantial new development occurring through out the City of Pullman as well as on the Washington State University Campus. The City and WSU are situated in the hills of the Palouse. Every property and parcel within the City and WSU is part of a natural drainage basin (very similar to the Hatley Creek Basin).There is not any natural waterway located within the City and outside of the City that is not affected by the negative impacts of urban stormwater flows.

The City continues to allow the filling in of the floodplain to increase the value and usability of property within its boundaries. Most all of the wetlands and natural riparian areas that were once located along the streams have been filled in or covered over with impervious surfaces providing no buffers for the protection of the natural waterways from the negative impacts of stormwater runoff.

The City and WSU continue to use antiquated methods for the calculation of stormwater runoff for pre and post-development conditions. Methods such as the "rational method" (which the city and WSU allows) have been banned from use in most areas of the State because this method leads for the construction of grossly undersized on-site detention systems requiring significant up-sizing of downstream pipes to accept the added flows, thus providing very little or **[**no**]** benefit in preventing continued degradation of waters of the state. There are numerous pipes discharging directly into all of the natural water ways located within the City. These pipes must be identified.

In reference to page 6 of 16 of the Fact Sheet for the Preliminary Draft of the Phase II Stormwater Permit for Eastern Washington, it is noted that Ecology must evaluate the "Bubble Cities" to be designated as "regulated small MS4s" for inclusion in the NPDES Phase II stormwater permitting program of which Pullman is listed.

I have provided factual information within my comment letter that will perhaps help ecology with their evaluation as to whether the City of Pullman as well as WSU should be designated as a "regulated small MS4" for inclusion in the NPDES Phase II stormwater permitting program.

Negative impacts of stormwater issues were ignored by the City until those of us in the Hatley Basin continued to stay on the door step of the City and demanded accountability for their actions. Believe me, no citizen should have to be put through what we have been put through and we are still fighting for the protection of our safety and welfare from the cumulative impacts of the stormwater that is being dumped on us. It's been eight years.

Other reasons the City and WSU should be included are:

1. Pullman and WSU are experiencing significant development.
2. Out dated methods for constructing stormwater systems are still being used.
3. All stormwater systems (including detention ponds) located within residential areas are designated to the City for maintenance.
4. It is of question if WSU maintains their systems.
5. There are numerous pipes that discharge to all natural waterways within the City.
6. The natural waterways within the City are being used as part of the City's utility stormwater sewer system.
7. To date there is no monitoring of stormwater discharges to state waters by the City or WSU.
8. What beneficial use will these state waters provide for the future if stormwater discharges to state waters are not monitored and regulated?
9. **All stormwater that is generated within the City of Pullman and WSU is conveyed to the nearest natural stream. These streams are direct tributaries to the SFPR. The SFPR is listed on the 303(d) list.**

Because the City of Pullman has stated in the strongest of terms that the regulation of water quality enforcement is a DOE responsibility and not theirs, I strongly encourage DOE to designate Pullman as a "regulated small MS4" City for inclusion in the NPDES Phase II Stormwater permitting program.

Sincerely,

Cheryl Morgan
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